

6 October 1997

Re: NEPA Technical Inquiry 0154 - Disposal of Historic Property

Dear NEPA Call-In User:

This letter is in response to your September 10, 1997 request for information regarding a property disposal action. You stated an historic building which houses a U.S. mint is being prepared for disposal. The building is approximately 100,000 square feet and is listed on the National Register of Historic Places. You would like to know GSA's responsibilities under the National Environmental Policy Act (NEPA) and related authorities for this disposal action.

SUMMARY OF FINDINGS

NEPA Call-In determined that the Checklist Categorical Exclusion (CATEX) under NEPA may apply to your action. The checklist may conclude that this action is a CATEX, or may indicate that a more detailed Environmental Assessment (EA) or Environmental Site Assessment (EIS) should be prepared. Because the building is an historic property, consultation under Section 106 of the National Historic Preservation Act (NHPA) must also be initiated. Our detailed findings are presented below.

DETAILED FINDINGS

NEPA Call-In reviewed GSA NEPA guidance contained in the PBS NEPA Desk Guide, Final Draft, May 1997. The Desk Guide is now available on the NEPA Call-In World Wide Web page at <http://www.gsa.gov/pbs/pt/call-in/nepa.htm>. The measurements and procedures outlined in the PBS NEPA Desk Guide shall serve as interim guidance for PBS NEPA compliance activities, pending official issuance of ADM 1095.1F, "Environmental Considerations in Decisionmaking," and PBS 1095.4C, "Compliance with the National Environmental Policy Act," which are contained in Appendix 1 of the Desk Guide. Chapter 5, "Categorical Exclusions" (enclosed), explains two types of CATEXs which can apply to an action; the Automatic CATEX and Checklist CATEX. If an action is determined to be a CATEX under NEPA, no further environmental analysis is needed.

We found, according to Chapter 5 of the NEPA Desk Guide, that your disposal action does not qualify for an automatic CATEX but may qualify for a Checklist CATEX. A Checklist CATEX requires preparation of a checklist to ensure that no extraordinary circumstances exist that would require preparation of an EA or Environmental Impact Statement EIS.

We then reviewed Section 5.9.2 of the Desk Guide, "Considering Environmental Consequences." This section explains that 11 questions make up the CATEX checklist, each calling for a judgment by you and the NEPA Center of Expertise (NCE) about the likelihood that a particular kind of environmental consequence will result from the proposed action. For instance, Checklist Question A may receive a "Yes" answer if the action is likely to be inconsistent with any law, regulation, or Executive Order (EO). If the action results in use of the property which is inconsistent with existing zoning or surrounding land use, then Checklist Question B would receive a "Yes" answer. If the action is likely to result in the use, storage, release or disposal of toxic,

hazardous, or radioactive materials, then Question C would receive a "Yes" answer. Since you stated the building is listed on the National Register of Historic Places, Question E would have to receive a "Yes" answer. Following the Checklist CATEX guidance in the NEPA Desk Guide, the Checklist may conclude the action is a CATEX, requires an EA, or requires an EIS. If a "Yes" answer can be resolved through other means, such as complying with the requirements of Section 106 of the National Historic Preservation Act (NHPA) for actions affecting historic properties, then an EA or EIS may not be required. If the checklist results in many "YES" answers, this may be an indication that an EA or EIS is needed to address extraordinary circumstances surrounding the proposed action. In addition, "special studies," which can provide important background information may be necessary as part of the NEPA planning process.

Special studies related to NEPA actions are listed in Chapter 9, "Special Studies," of the NEPA Desk Guide. Special studies include Environmental Justice studies, social impact assessments, cultural resource surveys (can include NHPA Section 106 review), environmental due diligence reports (Environmental Site Assessments), floodplain studies, and others. NEPA Call-In is enclosing the following fact sheets for your reference: NHPA Section 106 Review; Environmental Site Assessments; The National Environmental Policy Act; and Summaries of NEPA, Associated Laws and Executive Orders.

Finally, Section 106 of NHPA requires Federal agencies to consider the effects of their actions on historic properties, and give the Advisory Council on Historic Preservation (Council) an opportunity to comment. Because the property in question is on the National Register of Historic Places, you must consider the effect of GSA's disposal action on the property. Section 106 compliance is completed in consultation with the State Historic Preservation Officer, the Council, and other interested parties. Section 106 requires that you identify and evaluate historic properties affected by the action, assess the effects of the action on them, and resolve adverse effects before proceeding with the action. The specific requirements for Section 106 review are contained in Title 36 Code of Federal Regulations Part 800, "Protection of Historic and Cultural Properties," and are summarized in the enclosed fact sheet.

The materials in this TI have been prepared for use by GSA employees and contractors and are made available at this site only to permit the general public to learn more about NEPA. The information is not intended to constitute legal advice or substitute for obtaining legal advice from an attorney licensed in your state and may or may not reflect the most current legal developments. Readers should also be aware that this response is based upon laws, regulations, and policies in place at the time it was prepared and that this response will not be updated to reflect changes to those laws, regulations and policies.

Sincerely,

(Original Signed)

NEPA Call-In Researcher